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Filing date: **08/26/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181755
Party	Plaintiff Franciscan Vineyards
Correspondence Address	Stephen L. Baker Baker & Rannells, PA 575 Route 28, Suite 102 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com,k.hnasko@br-tmlaw.com
Submission	Motion to Strike
Filer's Name	Linda Kurth
Filer's e-mail	officeactions@br-tmlaw.com,k.hnasko@br-tmlaw.com
Signature	/Linda Kurth/
Date	08/26/2009
Attachments	Mot Strike Applicant's 6th Notice of reliance.pdf ( 3 pages )(46940 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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FRANCISCAN VINEYARDS, INC.,

Opposer,

v.

BEAUXKAT ENTERPRISES, LLC

Applicant.

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Opposition No. 91181755

Mark: BLACK RAVEN BREWING  
COMPANY

Serial No. 77223446

Filed: January 8, 2008

**OPPOSER'S MOTION TO STRIKE APPLICANT'S SIXTH NOTICE OF RELIANCE**

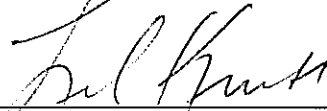
Opposer hereby moves to strike Applicant's Sixth Notice of Reliance in its entirety on the basis that the exhibits attached to the Notice are neither "printed publications" nor "official records" as contemplated by and as required by Rule 2.122(e), and (2) the Applicant is improperly using the Notice of Reliance to attempt to present testimony as to the truth of matters stated on its attached exhibits, and/or to present legal argument. Accordingly, Opposer requests that Applicant's Sixth Notice of Reliance be stricken in its entirety.

Attached as Exhibits to Applicant's Sixth Notice of Reliance are alleged copies of pages from various Internet sites including printouts from Wikipedia, cbc.ca, i22.photobucket.com, members.pcub.org.au, activerain.com, and search results from bing.com. Printouts from webpages are not proper subject matter for notices of reliance. See *Plyboo America Inc. v. Smith & Fong. Co.*, 51 USPQ2d 1644, 1634 n.3 (TTAB 1999). As is often cited, "Internet postings are transitory in nature as they may be modified or deleted at any time without notice." TBMP § 704.08.

As is clear from the face of the Notice and the exhibits, the same are not “printed publications” nor “official records” as contemplated by and as required by Rule 2.122(e) and are otherwise not authenticated. As such Applicant’s Sixth Notice of Reliance should be stricken in its entirety.

In the event that Applicant’s Sixth Notice of Reliance is not stricken, Opposer reserves the right to object to the Notice of Reliance on substantive grounds at the time of briefing.

Respectfully submitted,



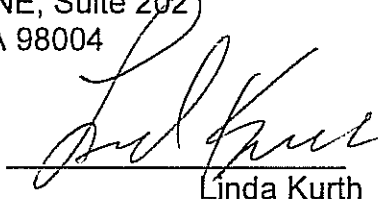
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Linda Kurth  
John M. Rannells  
Baker and Rannells PA  
Attorneys for Opposer  
575 Route 28, Suite 102  
Raritan, N.J. 08869  
908-722-5640/jmr@br-tmlaw.com

August 26, 2009

I hereby certify that a copy of the foregoing Opposer's Motion to Strike Applicant's Sixth Notice of Reliance in re: Franciscan Vineyards, Inc. v. Beauxkat Enterprises, LLC, Opp. No.91181755, was served on counsel for Applicant, this 26<sup>th</sup> day of August, 2009, by sending same via EMAIL to jpark@rpwfirm.com and First Class Mail, postage prepaid, to:

Justin D. Park  
Romero Park & Wiggins P.S.  
155-108<sup>th</sup> Avenue NE, Suite 202  
Bellevue, WA 98004

  
Linda Kurth